law & race relations

Frequently accusations are made alleging bias against ethnic minorities on the part of the police and the judiciary. It is said that this bias is contributing in a significant way to the erosion of ethnic minorities' confidence in the police, the judiciary and indeed the whole legal system.

This paper sets out some of the areas of concern with examples, many of which are local to Hackney or the East End, of how the minority groups have fared when brought up against the law enforcement agencies. The paper does not therefore claim to paint a complete picture. It concentrates on highlighting some of the more worrying aspects in the hope that, in the debate which will surely follow, improvements might be made possible.

We believe that it is important for people to realise that the problems go beyond the case histories and statistics: behind every open act of racial discrimination there are many more hidden acts. Acts which are often not even recognised as racist by the perpetrator. Institutionalised racism is a potent force in our society and it is urgent that all sectors of society recognise it and take active steps to counteract it.

It is not enough for the white majority to say that they are not racist: they must recognise the conditioning of British society and the attitudes pervading it which have imbued in many people a series of beliefs and stereotypes, often held subconsciously, which are both racist and utterly untenable when examined in any objective way.

A number of organisations will be using this paper, together with any comments on it, or further evidence received, as the basis of a submission to the Royal Commission on Criminal Procedure.

If you have any observations on the paper please send them to HCRE, 247 Mare Street, London E8.

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Hackney Legal Action Group

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'SUS'

2,366 people were arrested in London in 1977 under an Act of Parliament passed in 1824 which was designed to control 'the wandering poor'.

Under section 4 of the Vagrancy Act, 1824, it is a criminal offence in itself to be a 'suspected person loitering with intent to commit a felonious offence.' This is the offence which has come to be known as 'Sus'. It is widely regarded as being one of the most abused areas of our criminal law which is used particularly by the police against the black community.

Most of those arrested on 'Sus' are claimed to be under suspicion of loitering with intent to commit some kind of 'street theft' involving cars or pickpocketing. Usually there would be no independent witnesses and two policemen would simply tell the magistrate that they had seen the accused, on at least two separate occasions (which need only be minutes apart), 'behaving suspiciously', say in the vicinity of some parked cars or in a crowded shopping area. In the absence of any independent witnesses it therefore becomes a question of the magistrate choosing to believe either the police or the accused.

A typical case, which occurred in Hackney, concerned a young West Indian who wanted to buy himself a new coat. In the morning he went to the Post Office and drew out £30 from his savings. With a few friends who went to the same college as he did, he set off to see what the various Hackney shops had to offer in his price range.

The movement of this group between the shops was sufficient to prompt the police to arrest them for 'Sus'. They were all convicted and thus, for the first time in their lives, earned themselves a place on the criminal records.

Another case concerned two Hackney youths, both West Indian, who were sent by the Careers Office, with a letter, for a job in the West End. Waiting for a bus to come back they were arrested and charged with 'Sus'. There had been a woman at the bus stop with a purse lying on the top of her shopping. Several buses had drawn up at the bus stop but the boys, like the woman, had not got on. This was not surprising as they were waiting for a number 6 and no number 6 had arrived. Yet this was enough to convince the policemen that they were behaving 'suspiciously'.

What amounts to 'suspicious behaviour' in one person's eyes could be perfectly reasonable, or at least not particularly unusual behaviour in the eyes of someone else. It introduces a highly subjective, discretionary element which, when added to policemen's stereotyped view of all young blacks being potential felons, leads inevitably to the charge of 'Sus' acquiring racial overtones. The figures bear this out.

In 1977 of the 2,366 people charged with 'Sus', 1042 came within the category 'Black Skinned (including West Indian/ African)' *(Hansard, 21.7.78).* Thus 44% of all arrests for 'Sus' were 'Black Skinned', yet the Census (taken in 1971 but still the best indicator of the likely size of ethnic minority communities) revealed that only about 9.5% of London's population had both parents born in the New Commonwealth, a category which includes many people who do not fit the description 'Black Skinned'.

Even these London-wide figures do not reveal the true nature of the problem. Included within them are the Airport Police and Boroughs such as Richmond, Sunbury, Kingston, Sutton and other Outer London Boroughs where very few ethnic minorities live.

If you look at some of the Inner London Boroughs a different picture emerges. In Hackney in 1977 of the 81 people arrested for 'Sus' 49 were 'Black Skinned'. This represents 60% of all arrests for 'Sus', yet at the time of the Census only about 11% of Hackney's population would have had 'Black Skins'. Whilst Oxford Street and the City of Westminster generally are clearly dangerous areas for blacks to go in London, in Lambeth blacks would have to be positively foolhardy to spend too much time walking the streets. A staggering 73% of all arrests for 'Sus' in Lambeth had 'Black Skins' (178 out of 244).

Wandsworth is another 'high risk' area where last year 61% of those arrested for 'Sus' had 'Black Skins' (51 out of 83). In none of these Boroughs is the proportion of blacks arrested for 'Sus' anything like their proportion within the Boroughs as a whole.

The Police Commanders in Hackney, Wandsworth and Lambeth might care to explain why it is that their figures are so high. Perhaps they would like to discuss it with the Commander of 'N' Division, which covers neighbouring Islington, where only 12% (6 out of 51) of those arrested for 'Sus' last year had 'Black Skins'. These differences of practice between Divisions point to the wide discretion which the police alone have in prosecuting this offence.

If the use of 'Sus' was to be in some way justified as a means of reducing theft and related offences, then one could have expected, perhaps, that there would be some similarity between the number of blacks charged with theft and related offences and the number of blacks charged with 'Sus'. No such similarity exists. In 1975 only 11% of those charged with theft and handling in the Metropolitan area were black (Metropolitan Crime Statistics).

What emerges therefore is an even clearer picture of the 'Sus' laws being used as a mechanism of social control which is directed disproportionately at blacks.

The highly subjective question of whether or not a person is 'loitering with intent' is a most unsatisfactory basis on which to bring anyone before the Courts. Surely it would be more appropriate to bring the charge of 'attempted theft', the proof of which requires much more stringent forensic tests and which would also entitle the accused to elect for trial by jury. The police would have to bring more than their personal assessments of what they thought people were likely to do in order to secure a conviction.

In 1971 the Home Secretary set up a Working Party 'to consider the law relating to vagrancy and street offences'. It reported in 1976. One of its conclusions was that 'there remains a place for the criminal law in this area of social control' and that whilst the Vagrancy Act itself ought to be repealed, most of the offences which it covered should 'be replaced by new offences of similar character.'

If these 'new offences of similar character' simply result in a preservation of the status quo then relations between the police and the black community are destined to deteriorate rather than to improve.

The Police

Relationships between the minority groups and the police are bad and in certain areas it is suggested that they have broken down completely: the reasons for this are discussed below. But whatever the reasons, and whether or not the police accept the evidence produced in this paper and in many other documents, it is time that they and the Home Office recognised the extent of the mistrust of the police by the minority groups and sought a better understanding with them.

In our view the only hope of a peaceful resolution of this situation is through a thorough, public and independent enquiry into police procedures and practices, looking particularly at the way the police select the charges which they bring against the minority groups, and more generally at the way the police conduct themselves towards and view the ethnic minority communities.

'Sus' and the enforcement of the immigration laws are discussed elsewhere in this paper. The following are examples which illustrate some of the reasons why relations between the police and ethnic minorities, as well as anti-racist organisations, are so poor.

1 Failure to respond promptly to calls for help from members of minority groups or to take complaints seriously: the worst example of this was in Brick Lane on 25th June 1978, when 150 white youths, many wearing NF badges, went on the rampage down Brick Lane, smashing Asian shopkeepers' windows and assaulting local Asian residents. It took the police about 30 minutes to arrive on the scene of this major riot. Other cases are less well documented but there are countless examples of the police, on hearing a 'strange accent' over the telephone, taking far too long to respond. When they have arrived their casual or mocking attitude has persuaded many blacks that there really is very little point in bothering anyway.

2 Failure to prosecute where the incident in question involves racists: the riot in Brick Lane resulted in twenty arrests but only three prosecutions, of which one was a Bengali who had been trying to defend his property. This is to be contrasted with other incidents where blacks or anti-racists are concerned and the police have appeared to be extremely diligent in pursuing what they see as being their duty. More recently we have been hearing of cases where the most the police have been willing to do is to advise blacks or anti-racists who have been assaulted by racialists to take out private prosecutions.

3 Assaults by the police and heavy-handed methods of interrogation of witnesses and suspects: in one case handled by Hackney Law Centre a black witness was held at the police station for nearly an hour against his will. After an abortive complaint the police apologised anyway and paid the man £50 in compensation.

In another case at present under investigation the police chased a West Indian boy into his home, shoving his mother to one side. They assaulted the boy. They were rude and aggressive, even though they had apparently no reason at all for thinking that the boy had committed an offence.

4 Different standards in dealing with anti-racist groups as compared with the NF: at a National Front meeting at Tysson Infants School in 1977 the police acted as stewards for the NF. Before allowing anyone into their meeting they demanded to see proof of their membership of the NF. Anyone who could not produce it was refused admittance.

More recently the Commander of 'H' Division (which covers Brick Lane) gave a public assurance that, so far as the police were concerned, no group had any prior rights to territory around Brick Lane to sell their literature or distribute their propaganda. It was to be 'first come first served'. Acting on this undertaking local Bengalis and anti-racists ensured that they were always out first. But to no avail. The NF's 'traditional patch' has been preserved for them by the police which they can occupy whenever they turn up. In contrast the anti-racist groups have been the subject of continual harassment by the police, even to the point where, on occasions, it has been impossible for members of the public to get close enough to buy or take any of the literature or leaflets available.

Similarly on 24th September 1978, when the NF were marching into the East End, the police broke an undertaking given three days earlier to allow local residents of Brick Lane and anti-racists to assemble at the top of Brick Lane for their counter-demonstration. This resulted in utter confusion on the day as no site was then made available. It thus became very difficult for the anti-racist groups to maintain their counter-demonstration in an organised and effective way.

The consistency and persistency of the double standards which the police apply in their dealings with ethnic minorities and anti-racists adds considerably to the mistrust which exists, not only on Brick Lane but in Hackney and the East End generally.

The police have now acquired a public image of being much more concerned to protect the NF and other racists than they are to protect local ethnic minorities and their right to live in an environment free of the threats and violence which the NF brings.

The Immigration Act

All these accounts are carefully recorded in the files of the Joint Council for the Welfare of Immigrants, but in the interests of the victims, and because some of the cases are the subject of official complaints or ministerial review, the names and some other details have been omitted.

One Sunday morning Mrs O. visited a friend to have her hair done. While she was away, officers from Hackney police station called at the family home and arrested Mr O., and took him and the 2½ year old child to the station. There he was questioned and told that he was believed to have entered this country illegally some three years ago.

After being held with his child in a cell for some time Mr O. was questioned again. This time the police explained that they also wanted to interview Mrs O., so he told them that she had visited a friend and provided the address. The police visited the address and found that Mrs O. had left.

Later Mr O. and the child were taken back to their home where they waited with the police for his wife to return. Unknown to them, Mrs O. had been on her way home when some neighbours had told her that her husband and child had been arrested and that the police also wanted to interview her. With this evidence of the police's conduct she was naturally terrified and decided to stay away from home until she could obtain competent advice.

Mr O. and his child were taken back to their cell. The baby was sick, had not eaten all day and her nose was bleeding. Late on Sunday night police officers told Mr O. that the child was to be taken into care, but refused to even give him the address to which she would be taken.

The next day Mr O. was taken to Pentonville prison and his wife obtained advice. She was desperate, and there was great difficulty, even obstruction, in finding out from the police where her daughter was, and also she could not get into her home, as she had left it without her keys and the police at first denied that they had them. JCWI explained to the Home Office that Mrs O. was quite prepared to attend an interview, but that she was worried about her child, and in view of the fact that her husband was now in prison it would surely not be thought necessary to detain her.

Even these attempts failed and the blame shifted to the Immigration Service when Mrs O. attended an interview, and was sent to Harmondsworth Detention Centre. Her child was released from care and sent to join her there.

The next day the mother and baby were released as a result of action by her representatives and the local MP, but who is to blame for this horrifying story of the abuse of powers?

Mr P. lived with his 'common law wife' in Hackney. He treated her child as his own and Mrs P. was heavily pregnant when he was arrested in April.

As a night shift worker at Fords, Mr P. had been asleep at home one day until he left to do some shopping. In the street he was grabbed by police officers who accused him of robbing a shop. He was taken back to the shop under force and the white proprietor seemed uncertain that Mr P. was the man who had visited the shop earlier. Hackney police were not satisfied and he was put in a cell at the police station for several hours.

Much later Mr P. was told that the Home Office regarded him as an 'overstayer', and he was sent straight to prison. Technically it was true. He had come to Britain in 1972 as a student, and later worked for his living. He didn't know that the Home Office had decided that he should be deported, but assumed that because he had been here for so long his stay must have been regularised.

Mr P. was wrong. He was not secure in this country and the suffering caused to him and his family while he was kept in prison is proof of this. The question remains; did Hackney police arrest Mr P. because they had reason to believe that he had overstayed his leave to remain in this country, or because he was just another black person who could be questioned at random without fear of complaint?

Mr C. was arrested by Hackney police one day in April while walking in the street. He was not even accused of any offence, let alone charged, but merely

told that he would be put in a cell while the police checked up on his immigration status with the Home Office. He was later informed that he had overstayed his leave to remain in Britain and taken to prison. He had no right of appeal and there is no formal procedure by which Mr C. could even apply for bail while his case was considered.

What led the Hackney police to stop Mr C. in the street? Did they have any good reason to believe that he had overstayed, or entered illegally, or did they just stop and question him because he was black?

After five months in prison this citizen of Hackney who had been the victim of bad advice was returned to Ghana. Had he received competent advice at an earlier stage, he might have been allowed to stay here until he finished his course at Hackney Technical College.

These three examples of people arrested in Hackney, and then detained in prisons without charge, trial, conviction or sentence, are sadly not exceptional. Other and more dramatic cases occur within the Borough and elsewhere almost daily. These three cases concern people who had overstayed the time they were allowed to remain in Britain when they first came here, and under the law as it stands at present they were liable to indefinite detention under the administrative powers of the Immigration Act without ever appearing before a Court. These three people and their families suffered unnecessarily because of the state of the law in this country, but if the police are prepared to behave in this way how many more black people were questioned at random by the Hackney police and detained in police or prison cells while enquiries were made? There must be many more than those who were able to contact JCWI.

Photo John Sturrock (Report)

The Judiciary

The rule in respect of racist thoughts or actions is 'do not be found out'. Lawyers, and in particular the judiciary, are good at using words. They are adept at disguising their true thoughts. It is all the more alarming therefore when judges openly display racism.

In the now notorious case Judge Mackinnon presided at the trial of Kingsley Read in a rare prosecution brought under the Race Relations Act for incitement to racial hatred. Mr Read was the leader of the National Party, a split from the National Front. The judge thought it appropriate to congratulate Mr Read and 'wish him well' in his endeavours.

His summing up was openly biased in favour of the defence and it was so clearly racist that even the Lord Chancellor felt moved to take the unusual step of reprimanding Mackinnon. Mackinnon asked not to be given any more cases with a racial element. Knowing now how he actually feels towards ethnic minorities, it is impossible to believe that any black who appears before Mackinnon can expect to receive a truly impartial hearing.

The three Virk brothers were attacked by a gang of white men outside their home in Newham. During the fight that followed the fourth brother joined in to help his brothers defend themselves. The brothers were all charged and convicted of offences of assault. They were sentenced to terms of imprisonment ranging from one to seven years.

Although the case had clear racist overtones Judge Argyle refused to admit that the racial aspect was relevant and he attacked the defence lawyers for raising the issue before returning the sentences of draconian severity.

The recent events at Brick Lane have indicated the way in which the stipendiary magistrates sitting at Old Street operate. Apparently without trying to understand the causes of the unrest they have issued a blanket warning that anyone appearing before them on charges connected with public order arising from incidents in Brick Lane will be sent to prison if found guilty. A strange way of looking at each case on its merits.

In applications for bail the Old Street magistrates have shown their feelings clearly: in June 1978, three youths appeared before Mr Nichols. The cases were adjourned and the defendants granted bail. The one white youth was given unconditional bail but the two Asian youths were put under curfew orders ordering them to remain indoors from 7.00 am to 7.00 pm every Sunday. Effectively this was a term of imprisonment in their own homes. At the eventual trial the Asian youths were acquitted and the white youth was convicted.

When three white youths appeared at Old Street charged with murdering Eshaque Ali they too were released on bail, at first on the condition that they lived outside of London, 'for their own safety' according to the magistrate, but later even this condition was lifted for one of the defendants.

Only five minutes before these youths charged with murder appeared, the same magistrate in the same Court had three black Nigerian students before him who were charged with remaining in the country after the expiry of their visas. They were remanded in custody. Eshaque Ali's family were in Court throughout and, to say the least, they found it difficult to comprehend why the men charged with their father's murder were set free when these students were kept behind bars.

At the other main magistrates' Court for Hackney, at Highbury Corner, there has been great concern over the behaviour of the Stipendary magistrates for many years. This is most clearly shown by there being proportionately more refusals of legal aid at this Court than at any other magistrates' Court in the country. As one would expect there is very little direct evidence of racial discrimination but the magistrates have been prepared to offer Irishmen the choice between imprisonment or a binding over to take the next boat-train back to Ireland.

In another case a Mauritian born youth of 19, who had been brought to the UK by his parents when a very young child and had no clear memories of Mauritius, was charged with petty larceny. The youth was mentally disturbed and had wandered away from his home. The magistrate wanted to deport him.

This was not within his power so, acting on a vague indication from the youth that he wanted to go back to Mauritius, and ignoring his mental state, the magistrate remanded him in custody three times whilst attempts were made to find the money for the youth's 'voluntary repatriation'.

The judiciary also have a vital role in interpreting the law, in particular the Acts of Parliament. There have been many criticisms of the restrictive methods of interpretation used by the Courts over the years. This has happened most noticeably with the Race Relations Acts: in September 1978 two members of the British Movement were acquitted of charges brought under the Race Relations Act, 1976 (a stronger version of the 1965 Act under which Kingsley Read had been prosecuted).

The Attorney General has now effectively admitted that because of judicial attitudes prosecutions are unlikely to be successful and should therefore not be instituted. As a result the racists can feel much freer to flout what was the clear intention of Parliament when it passed and strengthened the Race Relations Act.

Drastic reform is urgently required in order to narrow down the possibilities for the judiciary to intervene and frustrate a badly needed law.

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